

Environmental Protection Agency

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6.263(2)(D)3, 7.264(2)(B)1, 7.265(2)(B), 7.266(2)(E)–7.266(2)(E)3, 7.268(2)(A)1, 7.268(2)(A)3, 7.268(2)(E), 7.270(2)(B)12–7.270(2)(B)13, 7.270(2)(B)18, 7.270(2)(C)1.D, 7.270(2)(C)3, 7.270(2)(D)4.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, and are not part of the authorized State program. The statutory provisions include: 260.360(13), 260.379, 260.380–1.(10), 260.385(1), 260.390(8), 260.391, 260.395–1–260.295–5, 260.395–7.(5)–260.395–7.(6), 260.396, 260.405, 260.423–260.424, 260.431–260.434. The regulatory provisions include: 3.260(1)(A)21, 4.261(2)(A)6–4.261(2)(D)2, 5.262(2)(I), 6.263(2)(A)3–6.263(2)(A)4, 7.264(2)(P), 7.266(2)(C)–7.266(2)(D), 7.266(2)(E)4–7.266(2)(G), 7.270(2)(B)7–7.270(2)(B)8, 7.270(2)(B)10, 7.270(2)(C)1.A, 7.270(2)(H).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VII and the Missouri Department of Natural Resources, signed by the EPA Regional Administrator on August 30, 1988, and the subsequent Agreement signed on August 31, 1992 are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statement of Legal Authority.* (1) “Attorney General’s Statement for Final Authorization,” signed by the Attorney General of Missouri on June 27, 1985, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(2) “Attorney General’s Statement for Final Authorization of Changes to the Federal RCRA Program,” signed by the delegated Assistant Attorney General of Missouri on December 1, 1987, and the subsequent Statement signed on February 28, 1992, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA; 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are codified as part of the authorized hazardous waste management program

under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[54 FR 8193, Feb. 27, 1989, as amended at 58 FR 3500, Jan. 11, 1993]

§§ 272.1302–272.1349 [Reserved]

Subpart BB—Montana

§ 272.1350 [Reserved]

§ 272.1351 Montana State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Montana has final authorization for the following elements as submitted to EPA in Montana’s base program application for final authorization which was approved by EPA effective on July 25, 1984. Subsequent program revision applications were approved effective on, March 21, 1994, December 24, 1996, December 26, 2000 and November 29, 2005.

(b) The State of Montana has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The Montana regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Montana regulations that are incorporated by reference in this paragraph are available from the Montana Secretary of State, Administrative Rules Bureau, P.O. Box 202801, Helena, MT 59620–2801 (Phone: 406–444–2055). You may inspect a copy at EPA Region 8, from 7 a.m. to 4 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, or at the National Archives and Records Administration (NARA). For information on the availability of

this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled “EPA Approved Montana Regulatory Requirements Applicable to the Hazardous Waste Management Program”, dated November 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Montana Code Annotated (MCA) 2005, Title 2, “Government Structure and Administration”: Chapter 3, “Public Participation in Governmental Operations”, sections 2-3-102 introductory paragraph through 2-3-102(2), 2-3-103(1), 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-221, 2-3-301; Chapter 4, “Administrative Procedure Act”, sections 2-4-103, 2-4-315; Chapter 6, “Public Records”, sections 2-6-101 *et seq.*; Chapter 15, “Executive Branch Officers and Agencies”, sections 2-15-3501 and 2-15-3502.

(ii) Montana Code Annotated (MCA) 2005, Title 25, “Civil Procedure”: Chapter 20, “Rules of Civil Procedure”, Rule 24(a).

(iii) Montana Code Annotated (MCA) 2005, Title 27, “Civil Liability, Remedies, and Limitations”: Chapter 30, “Nuisances”, section 27-30-204.

(iv) Montana Code Annotated (MCA) 2005, Title 30, “Trade and Commerce”: Chapter 14, “Unfair Trade Practices and Consumer Protection”, sections 30-14-402 *et seq.*

(v) Montana Code Annotated (MCA) 2005, Title 75, “Environmental Protection”: Chapter 10, “Waste and Litter Control”, sections 75-10-107, 75-10-402(3), 75-10-403, 75-10-404(1) introductory paragraph and (1)(a), 75-10-404(1)(e), 75-10-404(2), 75-10-405 (except 75-10-405(1)(i), (1)(j) and (2)(a)), 75-10-406, 75-10-408, 75-10-409, 75-10-410, 75-10-411, 75-10-413, 75-10-414, 75-10-415, 75-10-416, 75-10-417, 75-10-418, 75-10-419, 75-10-420, 75-10-421, 75-10-422, 75-10-424, 75-10-425, 75-10-426, 75-10-427, 75-10-441 and 75-10-442; Chapter 20, “Major Facility Siting”.

(vi) Administrative Rules of Montana (ARM), effective April 1, 2005, Title 17, “Environmental Quality”: Chapter 53, Hazardous Waste, sections 17.53.104,

17.53.201, 17.53.202, 17.53.206, 17.53.207, 17.53.208, 17.53.212, 17.53.213, 17.53.214, 17.53.215, 17.53.1202(5)(m), 17.53.1202(6).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) Montana Code Annotated (MCA) 2005, Title 75, “Environmental Protection”: Chapter 10, “Waste and Litter Control”, sections 75-10-405(1)(i) & (j), 75-10-405(2)(a), 75-10-431, 75-10-432, 75-10-433, 75-10-434.

(ii) Administrative Rules of Montana (ARM), effective April 1, 2005, Title 17, “Environmental Quality”, Chapter 53, Hazardous Waste, sections 17.53.112, 17.53.113, 17.53.703, and 17.53.1202(5)(l), and (17).

(4) *Memorandum of Agreement and Enforcement Agreement*. The Memorandum of Agreement between EPA Region 8 and the State of Montana, signed by the State of Montana Department of Environmental Quality on November 30, 1993, and by the EPA Regional Administrator on December 25, 1993, and the Enforcement Agreement between EPA Region 8 and the State of Montana, signed by the State of Montana Department of Environmental Quality on September 1, 2000, and by the EPA Regional Administrator on September 11, 2000, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(5) *Statement of Legal Authority*. “Independent Legal Counsel Statement”, accompanied by an Attorney General concurrence letter signed by the Attorney General of Montana on December 27, 1983 as amended June 7, 1984 and revisions, supplements and addenda to that Statement accompanied by Attorney General concurrence letters dated September 23, 1993, March 28, 1995, June 29, 1995, and April 4, 2005 although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Program Description*. The Program Description and any other materials

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submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[71 FR 11538, Mar. 8, 2006]

§§ 272.1352–272.1399 [Reserved]

Subpart CC—Nebraska

§§ 272.1400–272.1449 [Reserved]

Subpart DD—Nevada

§§ 272.1450–272.1499 [Reserved]

Subpart EE—New Hampshire

§§ 272.1500–272.1549 [Reserved]

Subpart FF—New Jersey

§§ 272.1550–272.1599 [Reserved]

Subpart GG—New Mexico

§ 272.1600 [Reserved]

§ 272.1601 New Mexico State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted New Mexico final authorization for the following elements as submitted to EPA in New Mexico's base program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, January 2, 1996, March 10, 1997, October 9, 2001, October 16, 2007, May 26, 2009, and December 27, 2010.

(b) The State of New Mexico has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in

accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The New Mexico statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New Mexico regulations that are incorporated by reference in this paragraph from the New Mexico Commission of Public Records, State Records Center and Archives, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. The statutes are available from Conway Greene Company, 1400 East 30th Street, Suite #402, Cleveland, OH 44114. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665-8533), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The binder entitled "EPA-Approved New Mexico Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated December 2010.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) New Mexico Rules Annotated, Rules of Civil Procedure for the District Courts, Article 4, (1995), Section 1-024.

(ii) New Mexico Statutes 1978 Annotated, Inspection of Public Records Act, Chapter 14, Article 2, (2009 Cumulative Supplement), Sections 14-2-1 *et seq.*

(iii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (2000 Replacement Pamphlet), Sections 74-4-4.1, 74-4-4.7.B and .C, 74-4-5, 74-4-7, 74-4-10.1 (except 74-4-10.1.C), and 74-4-14.